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104TH CONGRESS
1ST SESSION

S. 237

To amend the Internal Revenue Code of 1986 to impose a value added tax and to use the receipts from the tax to reduce the Federal budget deficit and Federal debt and to finance health care reform.

IN THE SENATE OF THE UNITED STATES

JANUARY 18 (legislative day, JANUARY 10), 1995

Mr. HOLLINGS introduced the following bill; which was read twice and referred to the Committee on Finance

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A BILL

To amend the Internal Revenue Code of 1986 to impose a value added tax and to use the receipts from the tax to reduce the Federal budget deficit and Federal debt and to finance health care reform.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Deficit and Debt Reduction and Health Care Financing Act of 1995".

SEC. 2. AMENDMENT OF 1986 CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms

of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

TITLE I—VALUE ADDED TAX

SEC. 101. IMPOSITION OF TAX.

(a) IN GENERAL.—Subtitle D (relating to miscellaneous excise taxes) is amended by inserting before chapter 31 the following new chapter:

"CHAPTER 30—VALUE ADDED TAX

"SUBCHAPTER A. Imposition of tax.
"SUBCHAPTER B. Taxable transaction.
"SUBCHAPTER C. Taxable amount, rate of tax and exemption from tax for certain transactions and certain entities; credit against tax.
"SUBCHAPTER D. Administration.
"SUBCHAPTER E. Definitions and special rules; treatment of certain transactions.

"Subchapter A—Imposition of Tax

"Sec. 3901. Imposition of tax.

"SEC. 3901. IMPOSITION OF TAX.

"(a) GENERAL RULE.—A tax is hereby imposed on each taxable transaction.

"(b) AMOUNT OF TAX.—Except as otherwise provided in this chapter, the amount of the tax shall be 5 percent of the taxable amount.

"Subchapter B—Taxable Transaction

"Sec. 3903. Taxable transactions.
"Sec. 3904. Nontaxable transaction.
"Sec. 3905. Taxable person.
"Sec. 3906. Transactions in the United States.

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"Sec. 3907. Rules pertaining to sales of property and performance of services.

"SEC. 3903. TAXABLE TRANSACTIONS.

"(a) GENERAL RULE.—Except as otherwise provided in this chapter or in regulations, the term "taxable transaction" means—

"(1) the sale of property or services in the United States by a taxable person in connection with a business,

"(2) the import of property or services for use or consumption in the United States,

"(3) the—

"(A) sale of property or services (not included in subparagraph (B)) in the United States other than in connection with business for a consideration that exceeds $1,000, or

"(B) lease of property in the United States other than in connection with a business, if the fair market value of the leased property exceeds $1,000, and

"(4) the sale of property or services exported from the United States for use or consumption outside the United States.

"(b) CROSS REFERENCES.—For other transactions specifically treated as taxable transactions, see sections 3933, 3936, and 3937.

"SEC. 3904. NONTAXABLE TRANSACTION.

"(a) GENERAL RULE.—The term 'nontaxable transaction' includes—

"(1) any transfer of possession of, or transfer of a security interest in, property or services by a debtor to a creditor or a representative of creditors, or

"(2) any transfer of possession, or incidents of ownership, of property or services to a fiduciary who represents the interests of an owner under a legal disability,

"(3) any transfer of ownership of property or services by a debtor to a trustee in bankruptcy, receiver, or other fiduciary appointed to marshall, manage, or liquidate a debtor's property for the benefit of creditors,

"(4) any import of an article that is free of duty under parts 1 and 2 of schedule 8 of the Harmonized Tariff Schedule of the United States, or

"(5) any sale of property located, or services performed, outside the United States, unless such sale constitutes an export to which section 3903(a)(4) applies.

"(b) AUTHORIZATION TO TREAT TRANSACTION AS NONTAXABLE.—The Secretary may, by regulations, treat

any transaction as a nontaxable transaction if such classification—

"(1) is provided to reduce the cash flow costs of the tax on the transactions, and

"(2) does not reduce net tax revenue.

"SEC. 3905. TAXABLE PERSON.

"(a) GENERAL RULE.—Except as otherwise provided in this chapter, the term 'taxable person' means—

"(1) a person who engages in a taxable or nontaxable transaction in connection with a business, and

"(2) a person who engages in a transaction described in section 3903(a)(3), but only with respect to such transaction.

"(b) TREATMENT OF EMPLOYEES.—For purposes of this chapter, an employee shall not be treated as a taxable person with respect to activities engaged in as an employee.

"SEC. 3906. TRANSACTIONS IN THE UNITED STATES.

"(a) SALES OF PROPERTY.—For purposes of this chapter, a sale of property shall be treated as occurring in the United States if the property is located in the United States at the time of the sale.

"(b) SALES OF SERVICES.—For purposes of this chapter, a sale of services shall be treated as occurring

in the United States to the extent that the services are provided from a place of business in the United States.

"SEC. 3907. RULES PERTAINING TO SALES OF PROPERTY AND PERFORMANCE OF SERVICES.

"(a) EXCHANGES CLASSIFIED BY CONSIDERATION GIVEN.—For purposes of this chapter—

"(1) an exchange of property for property or services shall be treated as a sale of property, and

"(2) an exchange of services for property or services shall be treated as a sale of services,

regardless, in either case, of whether other consideration is received.

"(b) CERTAIN TRANSFERS OF PROPERTY TO EMPLOYEES TREATED AS SALES.—For purposes of this chapter, the transfer of property to an employee as compensation (other than a transfer that is excludable from the employee's gross income for purposes of chapter 1) shall be treated as the sale of property.

"(c) SALE OF SERVICES.—For purposes of this chapter—

"(1) CERTAIN ACTIVITIES TREATED AS SALES OF SERVICES.—Activities treated as the sale of services shall include (but shall not be limited to)—

"(A) the granting of the right to use property,

"(B) the granting of a right to the performance of services or to reimbursement (including the granting of warranties, insurance, and similar items),

"(C) the making of a covenant not to compete (or similar agreement to refrain from doing something),

"(D) the supply of electricity, gas, water, and other utilities, and

"(E) the licensing of patents, copyrights, trademarks, software, and other proprietary information.

"(2) EMPLOYERS AND EMPLOYEES.—

"(A) SERVICES FOR EMPLOYER.—The performance of services by an employee for an employer shall not be treated as the sale of services.

"(B) SERVICES FOR EMPLOYEE.—The performance of services by an employer for an employee as compensation (other than a transfer of services that is excludable from the employee's gross income for purposes of chapter 1) shall be treated as the sale of services.

"Subchapter C—Taxable Amount; Rate of Tax and Exemption From Tax for Certain Transactions and Certain Entities; Credit Against Tax

"Sec. 3911. Taxable amount.
"Sec. 3912. Zero rated exports.
"Sec. 3913. Government entities and exempt organizations.
"Sec. 3914. Credit against tax.
"Sec. 3915. Constructive credit for certain purchases from a consumer.
"Sec. 3916. Credit for post-sale price adjustments and refunds.
"Sec. 3917. Deferred credit attributable to taxable casual sales.

"SEC. 3911. TAXABLE AMOUNT.

"(a) AMOUNT CHARGED CUSTOMER.—Except as otherwise provided in this chapter, if money is the only consideration for any transaction, the taxable amount shall be the price the seller charged the purchaser of the property or services—

"(1) including all invoiced charges for transportation and other items payable to the seller with respect to the transaction,

"(2) excluding—

"(A) the tax imposed by section 3901, and

"(B) any separately stated State and local sales and use taxes with respect to the transaction, and

"(3) reduced by any—

"(A) discount offered for prompt payment,

"(B) trade or quantity discount or other price allowance granted at the time of sale, and

"(C) cash rebate granted at the time of the sale.

"(b) EXCHANGES.—Except as otherwise provided in this chapter, the taxable amount for any exchange of property or services—

"(1) for other property or services, or

"(2) for a combination of money and

"(A) property or services, or

"(B) property and services,

shall be the fair market value of the property or services sold, adjusted by the items described in subsection (a).

"(c) IMPORTS.—

"(1) IN GENERAL.—For purposes of this chapter, the taxable amount in the case of any import shall be—

"(A) the customs value plus customs duties and any other duties that may be imposed, or

"(B) if there is no such customs value, the fair market value (determined as if the importer had sold the property or rendered the services).

If the value in paragraph (1)(A) does not include the cost to the importer of transporting and insuring the property

or services to the point of import, the taxable amount shall include such costs.

"(2) IMPORTS OF PREVIOUSLY EXPORTED ARTICLES.—For purposes of this chapter, the taxable amount for any import of an article that is returned to the United States—

"(A) after export for repairs or alterations abroad, or

"(B) after export to undergo assembly, processing, manufacture, or other changes in condition abroad,

shall be the net cost to the importer of such repairs, alterations, assembly, processing, manufacture, or other change in condition.

"(3) LIMITATION FOR PREVIOUSLY EXPORTED ARTICLES.—Paragraph (2) shall apply only to an article—

"(A) that the importer acquired before export, and

"(B) as to which there has been no transfer of ownership between the time of export and import.

"(d) CERTAIN RELATED PARTY TRANSACTIONS.—For purposes of this chapter, the taxable amount for a transaction conducted for no consideration or for a consid-

eration that is less than fair market value shall be the fair market value of the property or services sold, if—

"(1) the seller and the recipient—

"(A) are related persons, or

"(B) are employer and employee, and

"(2) the recipient is not eligible for a section 3914 input tax credit with respect to such purchase.

"(e) GAMBLING, LOTTERIES, AND OTHER GAMES OF CHANCE.—For purposes of this chapter, the taxable amount of proceeds from gambling, lotteries, and similar games of chance shall be the gross receipts from these activities, reduced by the amount paid to the winners.

"SEC. 3912. ZERO RATED EXPORTS.

"The rate of tax imposed by section 3901 shall be zero with respect to sales of property and services exported from the United States for use or consumption outside the United States.

"SEC. 3913. GOVERNMENT ENTITIES AND EXEMPT ORGANIZATIONS.

"(a) GENERAL RULE.—The sale of property and services by a government entity or exempt organization shall be a taxable transaction only if a charge or fee is imposed.

"(b) EXEMPT TRANSACTIONS.—For purposes of this chapter, the supply of property or services by a govern-

ment entity or exempt organization without consideration shall be exempt from the tax imposed by section 3901.

"(c) AUTHORITY TO TREAT SALES FOR NOMINAL CONSIDERATION AS EXEMPT TRANSACTIONS.—To the extent provided in regulations, a sale of property or services under subsection (a) shall be treated as an exempt transaction under subsection (b) if a government entity or exempt organization imposes a nominal charge or fee for such property or services.

"(d) DEFINITIONS.—For purposes of this chapter—

"(1) GOVERNMENT ENTITY.—The term 'government entity' means the United States, any State or political subdivision thereof, the District of Columbia, a Commonwealth or possession of the United States, or any agency or instrumentality of any of the foregoing.

"(2) EXEMPT ORGANIZATION.—The term 'exempt organization' means any organization which is exempt from tax under chapter 1.

"SEC. 3914. CREDIT AGAINST TAX.

"(a) GENERAL RULE.—There shall be allowed to a taxable person as a credit against the tax imposed by section 3901 the aggregate amount of tax imposed by section 3901 which—

"(1) is payable by sellers to the taxable person of property or services that the taxable person uses in the business to which the transaction relates, or

"(2) has been reported by the taxable person as importer of property or services that the taxable person uses in the business to which the transaction relates.

"(b) EXEMPT TRANSACTIONS, ETC.—If property or services are used partly in the business and partly for other purposes, the credit shall not be allowable with respect to the property or services used for other purposes. If property or services are used in the business partly for taxable and nontaxable transactions and partly for exempt transactions, the credit shall not be allowable with respect to the property and services used for exempt transactions.

"(c) BAD DEBTS.—

"(1) GENERAL RULE.—If—

"(A) a taxable person issues a tax invoice and reports tax under section 3901 on a sale of property or services,

"(B) the purchaser fails to pay all or a portion of the taxable amount of the sale plus tax imposed under section 3901, and

"(C) the debt becomes deductible as a wholly or partially worthless debt under section 166(a),

there shall be allowed as a credit under subsection (a) the portion of the tax imposed by section 3901 that is attributable to the deductible worthless debt.

"(2) AMOUNT OF CREDIT.—For purposes of this subsection, the tax attributable to the worthless debt shall be an amount equal to the deductible worthless debt described in paragraph (1), multiplied by a fraction, the numerator of which is the tax rate provided in section 3901(b) at the time of sale and the denominator of which is 100 plus the tax rate provided in section 3901(b) at the time of the sale.

"(3) SUBSTANTIATION REQUIRED.—For purposes of this chapter, the credit authorized under subsection (a) shall be allowable only if supported by a statement by the purchaser that any credit allowable to the purchaser under subsection (a) will be reduced by the amount specified in paragraph (2).

"(d) EXCESS CREDIT TREATED AS OVERPAYMENT.—

"(1) IN GENERAL.—If for any taxable period the aggregate amount of the credits allowable by subsection (a) exceeds the aggregate amount of the

tax imposed by section 3901 for such period, such excess shall be treated as an overpayment of the tax imposed by section 3901.

"(2) TIME WHEN OVERPAYMENT ARISES.—Any overpayment under paragraph (1) for any taxable period shall be treated as arising on the later of—

"(A) the due date for the return for such period, or

"(B) the date on which the return is filed.

"SEC. 3915. CONSTRUCTIVE CREDIT FOR CERTAIN PURCHASES FROM A CONSUMER.

"(a) GENERAL RULE.—For purposes of this chapter, if a taxable person acquires property from a consumer in a sale that is not subject to the tax imposed by section 3901, the purchaser shall be allowed as a credit under section 3914(a) the amount of tax deemed charged under subsection (b). This section applies only to property that was subject to the tax imposed by section 3901 when it was acquired by such consumer.

"(b) AMOUNT OF TAX INCLUDED IN PURCHASE PRICE.—For purposes of this section, the seller to the taxable person shall be deemed to have charged as tax an amount equal to the selling price of the property multiplied by a fraction—

"(1) the numerator of which is the tax rate provided in section 3901(b) at the time of sale, and

"(2) the denominator of which is 100 plus the tax rate provided in section 3901(b) at the time of the sale.

"(c) TIME WHEN CREDIT IS AVAILABLE.—For purposes of this chapter, the credit authorized under subsection (a) shall be allowed for the tax period in which the taxable person purchased the property.

"SEC. 3916. CREDIT FOR POST-SALE PRICE ADJUSTMENTS AND REFUNDS.

"(a) GENERAL RULE.—For purposes of this chapter, if a taxable person issues a sales refund, rebate, or price allowance attributable to a sale taxable under section 3901 and previously reported under section 3924, the taxable person shall be allowed as a credit under section 3914(a) the amount of the tax deemed allocable to the refund, rebate, or price allowance under subsection (b).

"(b) AMOUNT OF CREDIT.—For purposes of this section, the amount of tax deemed allocable to the refund, rebate, or price allowance described in subsection (a) shall be an amount equal to the refund, rebate, or price allowance multiplied by a fraction—

"(1) the numerator of which is the tax rate provided in section 3901(b) at the time of the sale, and

"(2) the denominator of which is 100 plus the tax rate provided in section 3901(b) at the time of the sale.

"(c) TIME WHEN CREDIT IS AVAILABLE.—For purposes of this chapter, the credit authorized under subsection (a) shall be allowed for the taxable period in which the taxable person issues the refund, rebate, or price allowance and is in possession of the documents required under subsection (d).

"(d) SUBSTANTIATION REQUIRED.—For purposes of this chapter, the credit authorized under subsection (a) shall be allowable only if supported by—

"(1) proof of the refund, rebate, or price allowance issued by the taxable person, and

"(2) a statement by the buyer receiving the refund, rebate, or price allowance that any credit otherwise allowable to the buyer under section 3914(a) will be reduced by the amount specified in subsection (b).

"SEC. 3917. DEFERRED CREDIT ATTRIBUTABLE TO TAXABLE CASUAL SALES.

"(a) GENERAL RULE.—For purposes of this chapter, if a person sells property or services in a taxable transaction under section 3903(a)(3), the seller shall be allowed

as a credit under section 3914, whichever of the following is smallest:

"(1) the amount of tax imposed by section 3901 that—

"(A) is payable by suppliers to the seller of property or services that the seller uses in the section 3903(a)(3) transaction, or

"(B) has been reported by the seller as importer of property or services that the importer uses in the section 3903(a)(3) transaction;

"(2) the tax imposed by section 3901 on the sale; or

"(3) the amount of tax referred to in paragraph (1) multiplied by a fraction—

"(A) the numerator of which is the taxable amount of the sale, and

"(B) the denominator of which is the tax-exclusive cost of the property and services described in subparagraphs (A) and (B) of paragraph (1).

In no case can the credit exceed the total amount of the taxes referred to in paragraph (1) not previously claimed as credits under this section.

"(b) TIME WHEN CREDIT IS AVAILABLE.—For purposes of this chapter, the credit authorized under sub-

section (a) shall be allowed for the taxable period in which the sale giving rise to the credit is reportable.

"(c) SUBSTANTIATION REQUIRED.—For purposes of this chapter, the credit authorized under subsection (a) shall be allowable only if supported by a tax invoice listing the tax described in subparagraph (A) of paragraph (1) or a document acceptable to the Secretary listing the tax described in subparagraph (B) of paragraph (1).

"Subchapter D—Administration

"Sec. 3921. Seller liable for tax.
"Sec. 3922. Tax invoices.
"Sec. 3923. De minimis exception.
"Sec. 3924. Time for filing return and claiming credit; taxable period; tax point; deposits of tax.
"Sec. 3925. Treatment of related businesses.
"Sec. 3926. Secretary to be notified of certain events.
"Sec. 3927. Regulations.

"SEC. 3921. SELLER LIABLE FOR TAX.

"(a) GENERAL RULE.—The person selling or importing property or services shall be liable for the tax imposed by section 3901.

"(b) JOINT LIABILITY ON NON-OWNER SELLER.—To the extent provided in regulations, any person making a sale of property or services on behalf of the owner (other than as an employee), and having control of the proceeds of the sale, shall be jointly and severally liable with the owner for any tax on the sale, and shall be allowed as a credit against such liability any amount creditable to the owner under section 3917.

"SEC. 3922. TAX INVOICES.

"(a) SELLER MUST GIVE PURCHASER TAX INVOICE.—Any taxable person engaging in a taxable transaction shall give the purchaser a tax invoice with respect to such transaction if—

"(1) the seller has reason to believe that the purchaser is a taxable person, or

"(2) the purchaser requests a tax invoice.

"(b) CONTENT OF INVOICE.—The tax invoice required by subsection (a) with respect to any transaction shall set forth—

"(1) the name and identification number of the seller,

"(2) the name of the purchaser,

"(3) the amount of the tax imposed by section 3901, and

"(4) such other information as may be prescribed by regulations.

"(c) NO CREDIT WITHOUT INVOICE—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), a purchaser may claim a credit with respect to a transaction only if the purchaser—

"(A) has received from the seller and has in his possession a tax invoice that meets the requirements of subsection (b), and

"(B) is named as the purchaser in such invoice.

"(2) EMPLOYEES OR OTHER AGENTS NAMED IN INVOICES.—To the extent provided in regulations, the naming of an employee or other agent of the purchaser shall be treated as the naming of the purchaser.

"(3) WAIVER OF INVOICE REQUIREMENT IN CERTAIN CASES.—To the extent provided in regulations, paragraph (1) shall not apply—

"(A) where the purchaser without fault on his part fails to receive or fails to have in his possession a tax invoice, or

"(B) to a taxable transaction (or category of transactions) where—

"(i) the amount involved is de minimis, or

"(ii) the information required by subsection (b) can be reliably established by sampling or by another method and can be adequately documented.

"(d) TIME FOR FURNISHING INVOICE.—Any invoice required to be furnished by subsection (a) with respect to any transaction shall be furnished not later than the earlier of—

"(1) the date the taxable person bills the purchaser with respect to such transaction, or

"(2) the date that is 15 business days after the tax point for such transaction (as defined in section 3924(d)).

"(e) WAIVER OF TAX INVOICE.—The Secretary may by regulations waive the requirement in subsection (a) to issue a tax invoice.

"SEC. 5923. DE MINIMIS EXEMPTION.

"(a) IN GENERAL.—A person whose aggregate taxable transactions—

"(1) do not exceed $5,000 for the calendar year, and

"(2) can reasonably be expected not to exceed such amount for the next calendar year,

may elect to be treated as a person who is not a taxable person for the next calendar year,

"(b) EXCEPTIONS.—Subsection (a) does not apply—

"(1) to taxable transactions described in section 5903(a)(3), or

"(2) to any import of property or services.

"(c) TERMINATION OF ELECTION.—An election under subsection (a) shall be terminated on the last day of—

"(1) the first calendar quarter of any year for which such election is made if the aggregate taxable transactions for such quarter exceed $2,500,

"(2) the second of any 2 consecutive calendar quarters of any such year if the aggregate taxable transactions for such quarters exceed $3,000, or

"(3) the third of any 3 consecutive calendar quarters of any such year if the aggregate taxable transactions for such quarters exceed $4,000.

"(d) CALCULATION OF TAXABLE TRANSACTIONS.—For purposes of this section—

"(1) the taxable amount of any zero-rated transaction shall be treated as zero, and

"(2) the term 'taxable transaction' does not include a transaction which is treated as a taxable transaction solely by reason of paragraph (3) of section 5903(a).

"(e) INFLATION ADJUSTMENT.—

"(1) IN GENERAL.—For calendar years beginning after 1995, the dollar amounts set forth in subsections (a) and (b) shall be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the cost-of-living adjustment for the calendar year.

"(2) COMPUTATIONAL RULES.—The cost-of-living adjustment is the percentage (if any) by which the consumer price index determined under section 1(f)(5) for the preceding calendar year exceeds the Consumer Price Index for the second preceding calendar year. If the amount determined under paragraph (1) is not a multiple of $100, then such increase shall be rounded to the nearest multiple of $100.

"SEC. 3924. TIME FOR FILING RETURN AND CLAIMING CREDIT; TAXABLE PERIOD; TAX POINT; DEPOSITS OF TAX.

"(a) FILING RETURN.—Before the first day of the second calendar month beginning after the close of each taxable period, each taxable person shall file a return of the tax imposed by section 3901 on taxable transactions having a tax point within such taxable period.

"(b) CREDIT ALLOWED FOR TAXABLE PERIOD IN WHICH PURCHASER RECEIVES INVOICE.—

"(1) IN GENERAL.—Except as provided in paragraph (2), a credit allowable by section 3914 with respect to a transaction may be allowed only for the first taxable period by the close of which the taxable person—

"(A) has paid or accrued amounts properly allocable to the tax imposed by section 3901 with respect to such transaction, and

"(B) has a tax invoice (or equivalent) with respect to such transaction.

"(2) USE FOR LATER PERIOD.—To the extent provided in regulations, at the taxable person's election, a credit allowable by section 3914 may be allowed for a period after the period set forth in paragraph (1).

"(c) TAXABLE PERIOD.—For purposes of this chapter—

"(1) IN GENERAL.—The term "taxable period" means each calendar quarter.

"(2) EXCEPTIONS.—

"(A) ELECTION OF MONTHLY TAXABLE PERIOD.—If the taxable person so elects, the term 'taxable period' means each month.

"(B) OTHER PERIODS.—To the extent provided in regulations, the term "taxable period" includes a period selected by the taxable person, other than the period provided in paragraph (1) or subparagraph (A).

"(3) AUTHORITY TO ALTER LENGTH OF TAX PERIOD.—The Secretary, to the extent the Secretary

deems such action necessary to protect the revenue, may shorten the length of a taxable person's tax period under this subsection.

"(d) TAX POINT.—For purposes of this chapter—

"(1) CHAPTER 1 RULES WITH RESPECT TO SELLER GOVERN.—Except as provided in paragraphs (2) and (3), the tax point for any sale of property or services occurs at the earliest of—

"(A) the time (or times) when any income from the sale should be treated by the seller as received or accrued (or any loss should be taken into account by the seller) for purposes of chapter 1,

"(B) the time (or times) when the seller receives payment for the sale, or

"(C) the time when the seller issues a tax invoice covering the sale.

"(2) EXCEPTION TO CHAPTER 1 RULES.—To the extent permitted by regulations, if the taxable person so elects, the tax point for any sale of property or services occurs when the taxable person receives payment for the sale.

"(3) IMPORTS.—The tax point for imports of property occurs when property is entered, or withdrawn from warehouse for consumption, in the Unit-

ed States, as determined under the Harmonized Tariff Schedule of the United States. The tax point for imports of services occurs when services are entered or transferred for use in the United States.

"(e) PERIODIC DEPOSITS REQUIRED.—

"(1) IN GENERAL.—To the extent provided in regulations, a taxable person shall make periodic deposits of estimated liability for the tax imposed by section 3901.

"(2) ESTIMATED LIABILITY.—For purposes of paragraph (1), the estimated liability shall equal—

"(A) the tax imposed by section 3901 for the period, and

"(B) reduced by the credit allowable under section 3914 on tax invoices received during the period.

"SEC. 3925. TREATMENT OF RELATED BUSINESSES.

"For purposes of this chapter, to the extent provided in regulations, a taxable person may elect—

"(1) to treat as one taxable person—

"(A) a controlled group of corporations under section 52(a), or

"(B) two or more businesses (whether or not incorporated) under common control under section 52(b), and

"(2) to treat as separate taxable persons separate divisions of the same business.

"SEC. 3926. SECRETARY TO BE NOTIFIED OF CERTAIN EVENTS.

"To the extent provided in regulations, each person engaged in a business shall notify the Secretary (at such time or times as may be prescribed by such regulations) of—

"(1) any change in the form in which the business is conducted, and

"(2) any other change that might affect—

"(A) the liability for the tax imposed by section 3901,

"(B) the amount of such tax or any credit against such tax, or

"(C) the administration of such tax in the case of such person.

"SEC. 3927. REGULATIONS.

"The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this chapter.

"Subchapter E—Definitions and Special Rules; Treatment of Certain Transactions

"Sec. 3931. Definitions.
"Sec. 3932. Special rules.
"Sec. 3933. Personal use by owner of business property or services.
"Sec. 3934. Financial services.

"Sec. 3935. Special rule for insurance contracts.
"Sec. 3936. Self-consumption of property or services in connection with exempt transactions.
"Sec. 3937. Cessation of taxable person status.
"Sec. 3938. Transfer in satisfaction of debt.

"SEC. 3931. DEFINITIONS.

"(a) PROPERTY.—For purposes of this chapter, the term 'property' means any tangible property.

"(b) SALE OF SERVICES.—For purposes of this chapter, the term 'sale of services' means the performance of services for a consideration.

"(c) SALE OF PROPERTY.—For purposes of this chapter, the term 'sale of property' means the transfer of ownership of property from a seller to a purchaser for a consideration.

"(d) BUSINESS.—For purposes of this chapter, the term 'business' includes any activity carried on continuously or regularly, whether or not for profit, that involves or is intended to involve the sale of property or services.

"(e) EMPLOYEE.—For purposes of this chapter, the term 'employee' has the meaning such term has for purposes of chapter 24 (relating to withholding).

"(f) PERSON.—For purposes of this chapter, the term 'person' has the meaning such term has under section 7701(a)(1), and it also includes any government entity.

"(g) BUSINESS DAY.—For purposes of this chapter, the term 'business day' means any day other than Satur-

day, Sunday, or a legal holiday within the meaning of section 7503.

"(h) UNITED STATES.—For purposes of this chapter, the term 'United States', when used in a geographic sense, includes the customs territory (as defined in General Headnote 2 of the Harmonized Tariff Schedule of the United States) and any area seaward of the States lying above the outer boundaries of the outer continental shelf (as defined in section 1331 of title 43, United States Code).

"SEC. 3932. SPECIAL RULES.

"(a) COORDINATION WITH SUBTITLE A.—For purposes of subtitle A—

"(1) TREATMENT OF CREDIT.—Any credit allowable to a taxable person under section 3914 that is attributable to any property or services shall be treated as a reduction in the amount paid or incurred by the taxable person for such property or services.

"(2) AMOUNT OF DEDUCTION FOR TAX.—The amount allowable as a deduction for the tax imposed by section 3901 shall be determined without regard to any credit allowable under section 3914.

"(b) SPECIAL RULE WHERE SALE OF PROPERTY INCLUDES INCIDENTAL SALE OF SERVICES.—For purposes

of this chapter, if in connection with the sale of any property there is an incidental sale of services, such sale of services shall be treated as part of the sale of such property.

"(c) SPECIAL RULE WHERE SALE OF SERVICES INCLUDES INCIDENTAL SALE OF PROPERTY.—For purposes of this chapter, if in connection with the sale of any services there is an incidental sale of property, such sale of property shall be treated as part of the sale of such services.

"(d) USE INCLUDES HELD FOR USE.—For purposes of this chapter, property or services held for use by any person shall be treated as used by the person.

"SEC. 3933. PERSONAL USE BY OWNER OF BUSINESS PROPERTY OR SERVICES.

"(a) GENERAL RULE.—For purposes of this chapter, if any business property or services are distributed to or used by an owner of the taxable person for personal purposes, and part or all of the tax imposed on the acquisition of such property or services was subject to the credit available under section 3914, such distribution or use shall be treated as a taxable transaction.

"(b) TAXABLE AMOUNT.—In the case of a distribution or use described in subsection (a), for purposes of this chapter, the taxable amount shall be—

"(1) except as provided in paragraph (2), the fair market value of the property or the services, or

"(2) if such distribution or use is only temporary, the fair rental value.

"(c) DEFINITIONS.—For purposes of this section—

"(1) BUSINESS PROPERTY OR SERVICES.—The term 'business property or services' means any property or services if a sale of such property or services by the taxable person would be a taxable transaction.

"(2) OWNER.—The term 'owner' means—

"(A) in the case of a sole proprietorship, the proprietor,

"(B) in the case of any other business enterprise, any holder of a beneficial interest in the corporation, partnership, or other entity, and

"(C) any member of the family (within the meaning of section 267(c)(4)) of an individual described in subparagraph (A) or (B).

"(d) SECTION 3911(d) HAS PRIORITY.—For purposes of this chapter, section 3911(d) (and not subsection (a)) shall apply to a transaction that is described in both such provisions.

"SEC. 3934. FINANCIAL SERVICES.

"For purposes of this chapter, the taxable amount of any financial service shall be the amount determined under section 3911.

"SEC. 3935. SPECIAL RULE FOR INSURANCE CONTRACTS.

"For purposes of this chapter, the taxable amount of any insurance services involving intermediation shall be the excess of—

"(1) the portion of the premium attributable to insurance coverage, over

"(2) the actuarial cost to the insurer of providing such insurance coverage.

"SEC. 3936. SELF-CONSUMPTION OF PROPERTY OR SERVICES IN CONNECTION WITH EXEMPT TRANSACTIONS.

"For purposes of this chapter, to the extent provided in regulations, if any property is produced or services are rendered by a government entity or exempt organization for use by itself in providing property or services exempt from tax under section 3913(b)—

"(1) the property or services supplied to itself shall be deemed sold in the course of business in a taxable transaction, and

"(2) the taxable amount shall be the fair market value of such property or services.

"SEC. 3937. CESSATION OF TAXABLE PERSON STATUS.

"(a) GENERAL RULE.—For purposes of this chapter, if a person ceases to be a taxable person—

"(1) any property and services then forming part of the assets of the business shall be deemed to be sold in a taxable transaction immediately before such cessation, and

"(2) the taxable amount shall be the lesser of the cost of the property and services to the taxable person or their fair market value when they are treated as sold.

"(b) EXCEPTIONS.—Except as provided by regulations, subsection (a) shall not apply—

"(1) with respect to any property or services described in subsection (a), to the extent that such property or services are transferred to a taxable person as part of a transfer of a going concern, or

"(2) with respect to any property or services described in subsection (a) for which the taxable person was not allowed a credit under section 3916(a).

"SEC. 3938. TRANSFER IN SATISFACTION OF DEBT.

"For purposes of this chapter, the transfer of property or services by a debtor to a creditor in payment of reduction of debt is a sale of such property or services."

(b) CONFORMING AMENDMENTS.—

(1) TIME AND PLACE FOR PAYING TAX.—Section 6151 (relating to time and place for paying tax shown on returns) is amended by adding at the end the following new subsection:

"(d) PAYMENT OF BUSINESS ACTIVITIES TAX BY CERTIFICATE OF WAIVER OF CREDIT.—

"(1) GENERAL RULE.—A certificate of waiver of credit issued in the form and containing the information required by regulations shall be treated as payment by the seller of the tax imposed by section 3901 to the extent of the qualified face amount of the certificate.

"(2) CONDITIONS FOR ISSUANCE.—A certificate of waiver of credit may be issued by a taxable person with respect to business property or services if—

"(A) the amount of the tax imposed by section 3901 and charged on a single tax invoice covering a transaction between the seller and another taxable person exceeds $750,000,

"(B) the purchaser is entitled under section 3914(a) to a credit for the amount of tax payable by the seller with respect to the transaction in subparagraph (A),

"(C) the purchaser waives the right to claim the credit described in subparagraph (B)

in an amount equal to the qualified face amount of the certificate, and

"(D) the seller and the purchaser agree that the certificate, to the extent of its qualified face amount, will be accepted by the seller in partial payment of the consideration (including the tax) for the transaction described in subparagraph (A).

"(3) QUALIFIED FACE AMOUNT.—The qualified face amount of a certificate of waiver shall be the excess of the tax imposed by section 3901 on the transaction described in paragraph (2)(A) over $750,000.

"(4) AUTHORITY TO ISSUE REGULATIONS.—The Secretary shall prescribe by regulation the form of and information required to be included in a certificate of waiver of credit under this section."

(2) COLLECTION.—

(A) IN GENERAL.—Subchapter B of chapter 64 (relating to receipt of payment) is amended by adding at the end the following new section:

"SEC. 6318. PAYMENT OF BUSINESS ACTIVITIES TAX.

"Periodic deposits of estimated tax liability under section 3924(e) shall be considered payment on account of the business activities tax imposed by chapter 30."

(B) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 64 is amended by adding at the end thereof the following new item:

"Sec. 6318. Payment of business activities tax."

(3) OVERPAYMENTS; CREDITS AND REFUNDS.—

(A) OVERPAYMENTS.—Subsection (b) of section 6401 (relating to amounts treated as overpayments) is amended by adding at the end the following new paragraph:

"(3) SPECIAL RULE FOR CREDIT UNDER SECTION 3916.—Any excess of credits treated by section 3914(d) as an overpayment of the tax shall be considered an overpayment."

(B) REFUND OR CREDIT.—Section 6402 (relating to authority to make credits or refunds) is amended by redesignating subsection (h) as (j) and by inserting after subsection (g) the following new subsection:

"(h) REPAYMENT OF BUSINESS ACTIVITIES TAX.—Within 90 days after the date on which a tax return is filed pursuant to section 3913 showing an overpayment,

the Secretary shall make, to the extent he deems practical, a limited examination of the return to discover omissions and errors of computation, and shall determine the amount of the overpayment, if any, for the taxable period to which the return relates and refund or credit the amount of such overpayment to the taxable person who filed the return."

(4) FAILURE TO FILE.—Section 6652 (relating to failure to file certain information returns, registration statements, etc.) is amended by redesignating subsection (m) as subsection (n) and adding after subsection (l) the following new subsection:

"(m) FAILURE TO GIVE TAX INVOICE.—In the case of each failure to give a tax invoice as required by section 3922(a) within the time prescribed therefore, unless it is shown that such failure is due to reasonable cause and not to willful neglect, there shall be paid (on notice and demand by the Secretary and in the same manner as tax) by the person failing to provide such tax invoice, an amount equal to $1,000 for each such failure. If such failure continues for 10 days after notice and demand by the purchaser for such tax invoice, unless it is shown that such failure is due to reasonable cause and not to willful neglect, there shall be paid (on notice and demand by the Secretary and in the same manner as tax) by the person

failing to provide such tax invoice, an additional amount equal to 10 percent of the amount required to be shown as tax on such tax invoice if the failure is for not more than 1 month, with an additional 5 percent for each additional month or fraction thereof during which such failure continues."

(5) CLERICAL AMENDMENT.—The table of chapters for subtitle D (relating miscellaneous excise taxes) is amended by adding before the item relating to chapter 31 the following new item:

"CHAPTER 30—BUSINESS ACTIVITIES TAX".

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to transactions occurring on or after January 1 of the 2d calendar year following the date of the enactment of this Act.

(2) TAX ON SALES PURSUANT TO CONTRACTS EXECUTED BEFORE THE EFFECTIVE DATE OF CHAPTER 30.—The tax imposed by section 3901 of the Internal Revenue Code of 1986 shall be imposed on any taxable transaction pursuant to any contract executed before the date referred to in paragraph (1) if the transaction has a tax point on or after that date. Any separately stated tax imposed by such sec-

tion 3901 on any transaction to which this paragraph applies shall be treated as additional consideration for the item acquired and as a legal obligation of the purchaser to the seller.

TITLE II—SURPLUS REVENUES

SEC. 201. REVENUES FROM VALUE ADDED TAX TO BE USED TO REDUCE THE PUBLIC DEBT AND FINANCE HEALTH CARE REFORM.

(a) IN GENERAL.—Subchapter I of chapter 31 of title 31, United States Code, is amended by adding at the end the following new section:

"§ 3114. Certain proceeds of value added tax to reduce public debt and to provide health care reform

"(a) There is established in the Treasury of the United States a trust fund to be known as the 'Deficit Reduction and Health Care Reform Trust Fund'.

"(b)(1) There is appropriated to the Deficit Reduction and Health Care Reform Trust Fund amounts equivalent to amounts received in the Treasury from the tax imposed under section 3901 of the Internal Revenue Code of 1986 (relating to the value added tax).

"(2) The amounts appropriated by paragraph (1) shall be transferred at least monthly from the General Fund in the Treasury to the Deficit Reduction and Health

Care Reform Trust Fund on the basis of estimates made by the Secretary of the Treasury of the amounts referred to in paragraph (1). Proper adjustments shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

"(c)(1) The Secretary of the Treasury shall use the money in the Deficit Reduction and Health Care Reform Trust Fund to pay for any administrative costs in collecting the tax imposed under section 3901 of the Internal Revenue Code of 1986 or in operating the Deficit Reduction and Health Care Reform Trust Fund.

"(2) Of the moneys remaining in the Trust Fund after payment of costs under paragraph (1), the Secretary of the Treasury—

"(A) shall use 80 percent of such moneys solely to pay at maturity, or to redeem or buy before maturity, an obligation of the Government included in the public debt, and

"(B) shall use 20 percent of such moneys, as provided in appropriations Act, solely to carry out Federal health care reform programs.

"(d) Any obligation of the Government which is paid, redeemed, or bought with money from the Deficit Reduc-

tion and Health Care Reform Trust Fund shall be canceled and retired and may not be reissued.

"(e) In calculating for any fiscal year the deficit under section 3(6) of the Congressional Budget Act of 1974 for purposes of comparison with the maximum deficit amount under the Balanced Budget and Emergency Deficit Control Act of 1985 (and in calculating the excess deficit under sections 251 and 252 of such Act)—

"(1) amounts received in the Deficit Reduction and Health Care Reform Trust Fund during such fiscal year shall not be included in total revenues, and

"(2) the disbursements out of such Trust Fund for such fiscal year shall not be included in total budget outlays."

(b) CONFORMING AMENDMENT.—The table of sections for subchapter I of chapter 31 of title 31, United States Code, is amended by adding at the end thereof the following new item:

"3114. Proceeds of value added tax to reduce public debt and to provide health care reform."

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